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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/019,509	04/15/2002	Johannes Petrus Stanislaus Maria Van Hassel	294-115 PCT/US	8677

7590 01/08/2004  
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EXAMINER

FLETCHER III, WILLIAM P

ART UNIT	PAPER NUMBER
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1762

DATE MAILED: 01/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/019,509

Applicant(s)

VAN HASSEL ET AL.

Examiner

William P. Fletcher III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 April 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 03/27/02. 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

The following title is suggested: PROTEINACEOUS COATING COMPOSITION AND METHODS FOR COATING SURFACES THEREWITH.

### ***Claim Objections***

2. Claim 3 is objected to because of the following informalities: "matrix forming gent" should, apparently, read "matrix forming agent". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

5. Claim 8 recites the limitation "the coating on which the contamination is deposited" in lines 2 and 3 of the claim. There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. **Claims 1, 2, 5, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Kolster et al. (EP 0 593 123 A1).**

Kolster teaches a coating composition comprising a suspension (i.e., dispersion) of wheat gluten in a fluid (water) comprising a matrix that is a combination of thickeners, plasticizers, acids, proteins, hydrophobic substances (abstract, for example). The composition is applied to a surface to prevent contamination of the surface by, for example, bacteria and fungi (3:24-47).

8. **Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Lim et al. (US 5,320,669 A).**

Lim teaches a coating composition comprising a dispersion of wheat gluten in a fluid comprising a cross-linking agent and a matrix that includes 5-30 wt-% polyvinyl alcohol (2:63-3:60; 4:55-6:43, especially 5:52, 55, and 6:33).

***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later

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invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**11. Claims 1, 5, 6, 7, 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benton et al. (US 3,583,932 A) in view of Kato (US 5,844,019 A).**

Benton teaches a coating composition comprising a protein dispersed in a fluid including a matrix forming agent (1-4:all). The composition may be applied to a surface as a protective coating and may include bactericides (4:42-52). The composition may also be applied to part of a surface as a strippable paint mask that may be removed after the application of paint or lacquer to the surface (1:20-47; 1:57-71; and 4:52-69). Surfaces include, but are not limited to, wood and plastic (4:52-63).

In the invention of Benton, the protein functions as a thickener (3:15-22). While not limited thereto, Benton teaches "a protein such as casein" (3:39).

Kato teaches that polymeric compositions containing the same polymers as Benton's matrix forming agent may be thickened equivalently by casein and gluten (4:18-51 and 6:50-64).

It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to modify the composition and method of Benton so as to substitute gluten for the casein thickening agent. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of similar results arising from Kato's teaching of the equivalency of casein and gluten as thickening agents for polymeric compositions.

12. **Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benton et al. (US 3,583,932 A) in view of Kato (US 5,844,019 A), as applied to claim 1 above, in further view of Krull et al. (*Industrial Uses of Gluten*).**

The combined teaching of Benton in view of Kato is detailed above. Kato does not explicitly teach *wheat* gluten.


Krull teaches that wheat is a well-known and ready source of gluten (see p. 232, for example). Consequently, it would have been obvious to one of ordinary skill in the art to modify the composition and method of Benton in view of Kato so as to utilize, as the gluten, wheat gluten. One of ordinary skill in the art would have been motivated to do so by the desire and expectation of successfully providing a gluten suitable as a thickener.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Fletcher III whose telephone number is (571) 272-1419. The examiner can normally be reached on Monday through Friday, 9 AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Shrive P. Beck can be reached on (571) 272-1419. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

  
**SHRIVE P. BECK**  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 1700**

William P. Fletcher III  
Examiner  
Art Unit 1762